REMARKS:

1.   Summary of the Rejections in the Office Action of February 28, 2005

At page 2, paragraph 3 of the Office Action, the Examiner rejects claims 1-24 under 35 U.S.C. § 103(a), as allegedly being rendered obvious by U.S. Patent No. 6,320,947 to Joyce *et al.* ("Joyce") in view of U.S. Patent No. 6,430,276 to Bouvier *et al.* ("Bouvier").

2.   35 U.S.C. § 103(a) Rejections

At page 2, paragraph 3 of the Office Action, the Examiner rejects claims 1-24 under 35 U.S.C. § 103(a), as allegedly being rendered obvious by Joyce in view of Bouvier.

The Applicant respectfully TRAVERSES the Examiner's obviousness rejections, and asserts the following remarks in response:

In order for the Examiner to establish a prima facie case for obviousness, three (3) criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as the Examiner proposes. Second, there must be a reasonable expectation of success in connection with the Examiner's proposed combination of the references. And third, the prior art references must **disclose or suggest all of the claim limitations**. MPEP 2143 (emphasis added). The Applicant maintains that the Examiner fails to establish a prima facie case for obviousness because the Examiner fails to satisfy his burden of showing that the prior art discloses or suggests all of the claimed limitations of claims 1-24.

The Applicant's independent, system claims 1, 6, 21 each describe a system for facilitating processing and disposition of a transaction, comprising "a billing facility configured to permit said [user or users] to establish a billing allocation scheme **between a first party and second party** to be used to control the billing of services that are provided within said access controlled environment **and are associated with a particular transaction**, and to . . . generate and process billing data based at least on said billing allocation scheme, wherein said billing data indicates a first monetary amount associated with said services, which is **to be billed to said first party**, and a second monetary amount associated with said services, which is **to be billed to said second party**, wherein each of the first monetary amount and the second monetary amount are **an amount greater than zero**, and the first party is **different than** the second party." (Emphasis added.) Similarly, the Applicant's independent, method claims 11 and 16 each describe a method for facilitating transaction processing and disposition, comprising the steps "permitting said user to establish a billing allocation scheme between a first party and a second party to be used to control the billing of services that are provided within said access controlled environment and **are associated with a particular transaction**; . . . and at a billing facility . . ., generating and processing said billing data based at least on said billing allocation scheme, wherein said billing data indicates a first monetary amount associated with said services, which is **to be billed to said first party**, and a second monetary amount associated with said services, which is **to be billed to said second party**, wherein each of the first monetary amount and the second monetary amount are **an amount greater than zero**, and the first party is **different than** the second party."

For example, as set forth in the Applicant's Description of Related Art, when **multiple parties**, e.g., at least one defendant and at least one plaintiff in a lawsuit, agree to conduct a **particular transaction** via a network, in known transaction processing and disposition systems and methods, expenses associated with the particular transaction may be allocated inequitably. See, e.g., Appl'n, Page 2, Lines 17-24; and Page 17, Lines 9-12. The Applicant's claimed invention addresses this issue through the use of a billing allocation scheme established by an authorized user of the system. Specifically, the parties involved in the particular transaction may incur monetary charges associated with the use and/or operations of the system, and the amount of these monetary charges that are to be allocated or billed to each of the parties involved in the particular transaction is determined at least based on the billing allocation scheme. For example, based at least on the billing allocation scheme established by the user, a first party may be charged a first percentage, e.g., 70%, of the total bill associated with the particular transaction, and a second party may be charged a second percentage, e.g., 30%, of the total bill associated with the particular transaction.

At page 3, paragraph 3 of the Office Action, the Examiner acknowledges that Joyce does not disclose "wherein the billing data indicates a first monetary amount associated with the services which is to be billed to the first party and a second monetary amount associated with the services which is to be billed to the second party, wherein each of the first monetary amount and the second monetary amount are an amount greater than zero, and the first party is different than the second party." However, citing to Column 13, Lines 1-10 of Bouvier, the Examiner asserts that

Bouvier supplies these elements of the Applicant's claimed invention that are missing

from Joyce, e.g., the Examiner asserts that Bouvier discloses or suggests that the

billing data indicates a first monetary amount associated with the services which is to

be billed to the first party and a second monetary amount associated with the services

which is to be billed to the second party, in which each of the first monetary amount

and the second monetary amount are an amount greater than zero, and the first party

is different than the second party.   The Applicant respectfully disagrees with the

Examiner's characterization of Bouvier.

For example, the portion of Bouvier, which the Examiner relies on, merely

states:

> [a] method of providing dialup network access services to users of a telephone system, in which the operator of the telephone system implements the method of claim 17 and periodically bills said users for use of the telephone system and for the network access services accessed through the generic access service, the operator billing the network access services **for** the providers of those services.

Bouvier, Column 13, Lines 1-10. Thus, Bouvier merely states that the operator of the

telephone system may implement the method, and when the operator of the telephone

system implements the method, the operator of the telephone system may bill the

user for their usage of the telephone system, and **on behalf of (for) the provider of**

the network access server, also may bill the user for their usage of the network

access service. *See, also,* Bouvier, Column 11, Lines 6-9, stating that "from a user's

standpoint, it is preferable for billing of the telephone charges **and** network access

charges to be made from **one billing authority**, such as the user's home Public

Telephone Switched Network operator." As such, in Bouvier, **there still is _only one_ party (the user) <u>that is billed or charged for any services</u>** (the operator of the telephone system is <u>not</u> charging/billing the provider of the network access server anything), and Bouvier merely describes having a first party (the operator of the telephone service) bill a second party (the user) for charges incurred by the second party (the user) for using a first type of service (telephone service) associated with the first party (the operator of the telephone service) and a second type of service (network access service) associated with a third party (the provider of the network access server). Moreover, in Bouvier, a first user and a second user cannot satisfy the limitations of the Applicant's claimed "first party" and "second Party" because the first user and the second user **are never involved in the <u>same</u> (particular) transaction**, i.e., there is no correlation or association between the first user's transactions and the second user's transactions. Thus, the combination of Joyce and Bouvier does not disclose or suggest the Applicant's claimed invention, as set forth in independent claims 1, 6, 11, 16, and 21. Therefore, the Applicant respectfully requests that the Examiner withdraw the obviousness rejection of independent claims 1, 6, 11, 16, and 21, and allow the same to issue in a U.S. patent.

Moreover, even assuming <u>Arguendo</u> that the Examiner is able to find a reference that supplies the elements of the Applicant's claimed invention that are missing from Joyce, Joyce is flawed as a primary reference because there is no motivation to modify the system described in Joyce to achieve the Applicant's claimed invention. For example, in Joyce, **there is only one party**, i.e., the user, **whom will ever be billed or charged for any services**, and there can never be any inequitable

distribution of expenses between parties involved in a transaction because only the user of the system is ever charged for services (the entity operating or providing the system does not charge itself for services which it provides to the user, and there are no other parties involved in the transaction). Thus, there is *no need* in Joyce **for the user to establish a billing allocation scheme between at least two different parties involved in the same transaction**, as set forth in the Applicant's claimed invention, since the allocation **always is that 100% of the charges are billed to the user**. Moreover, because the allocation always is that 100% of the charges are billed to the user, and hence, there is no incentive to allow the user to establish a billing allocation scheme between two different parties, those of ordinary skill in the art at the time the invention was made **would not have been motivated** to modify the system and method described in Joyce to include the Applicant's claimed billing allocation scheme.

Claims 2-5, 7-10, 12-15, 17-20, and 22-24 depend from independent claims 1, 6, 11, 16, and 21, respectively. "If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious." MPEP 2143.03 (citations omitted). Therefore, the Applicant respectfully requests that the Examiner also withdraw the obviousness rejections of claims 2-5, 7-10, 12-15, 17-20, and 22-24, and allow the same to issue in a U.S. patent.

CONCLUSION

The Applicant respectfully submits that the above-captioned patent application is in condition for allowance, and such action is earnestly requested. If the Examiner believes that an in-person or telephonic interview with the Applicant's representatives will in any way expedite the examination of the above-titled patent application, the Examiner is invited to contact the undersigned attorney of record. The Applicant is enclosing a check in the amount of $905.00 covering the requisite small entity fees for a three-month extension of time ($510.00) and Request for Continued Examination ($395.00). Nevertheless, in the event of any variance between the fees determined the Applicant and those determined by the U.S. Patent and Trademark Office, please charge any such variance to the undersigned's Deposit Account No. 01-2300.

Respectfully submitted,

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